

Application No.: 10/714,941

Docket No.: 2038-306

REMARKS

The Examiner's indication of allowable subject matter of claims 3, 7-8 is noted with appreciation.

Claims 1-20 are pending in the application. The original claims remain unchanged notwithstanding the art rejections manifested in the Office Action. New claims 11-20 have been added to provide Applicants with the scope of protection to which they are believed entitled. The Abstract has been revised to be in better form. No new matter has been introduced through the foregoing amendments.

The art rejections relying on *Gustafsson* (U.S. Patent No. 6,120,485) are noted. Applicants respectfully traverse the rejections because *Gustafsson* does not fairly teach or suggest all claim limitations.

For example, as to independent claim 1, Applicants respectfully submit that the reference fails to teach or suggest the claimed elastics attached to the backsheet. In *Gustafsson*, the elastic net shown in FIG. 1 is part of topsheet 1, rather than backsheet 4/5, because Fig. 1 shows the inside of the *Gustafsson* diaper. See *Gustafsson* at column 1, lines 60-62. Backsheet 4/5 of *Gustafsson* is shown in Fig. 2, which shows the outside of the *Gustafsson* diaper, and is not disclosed or suggested to have any elastics attached thereto. See *Gustafsson* at column 1, line 65.

The Examiner's reliance on column 2, lines 13-26 of *Gustafsson* for the claimed elastics is noted. Applicants respectfully disagree as the cited passage fails to both explicitly and implicitly teach the claimed limitation. The cited passage is reproduced herein below for convenience of review by the Examiner.

As can be seen most clearly in FIG. 2, cover layers 4, 5 of liquid impermeable material such as polyethylene film or a hydrophobic nonwoven fabric cover each of the holes and are sealingly fixed (as indicated by reference numeral 8) to the elastic pant thereby forming a pocket around each of said holes 3 and 2 respectively. Column 2, lines 13-18.

This section is deemed most pertinent as it discusses the structure of backsheet 4/5. However, the section does not contain any teaching of suggestion of the claimed elastic members.

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According to preferred embodiments each pocket can be filled with absorbent material 6, 7 such as fluff pulp and/or superabsorbent material, for reception of feces in the back pocket and urine in the front pocket. The absorbent material covers the hole or holes and the area immediately surrounding the hole or holes, and the liquid impermeable layer that covers the absorbent material is sealed to the elastic pant only in the area immediately surrounding the absorbent material. The absorbent material extends circa 1 1/2-2 centimeters beyond the periphery of the respective hole. Thus, the liquid impermeable cover layer 4 that covers the hole 3 also covers the absorbent material 6 that is disposed in the pocket located around the hole 3. Similarly, the liquid impermeable cover layer 5 that covers the hole 2 also covers the absorbent material 7 that is disposed in the pocket located around the hole 2. Column 2, lines 18-26.

This section discusses the relationship between the openings, the pocket, and the absorbent core. The section is irrelevant to the claimed elastic members.

Accordingly, Applicants respectfully submit that claim 1 is patentable over *Gustafsson* and request that the art rejections of claim 1 and claims 2, 4-6 and 9 depending from claim 1 be withdrawn.

Claim 10 depends from claim 1, and are considered patentable at least for the reason advanced with respect to claim 1. Claim 10 is also patentable on its own merit since the applied reference fails to teach or suggest the feature of claim 10 that a portion of said backsheet is exposed through the openings in the topsheet and the absorbent core. In *Gustafsson*, the backsheet is not exposed due to the presence of the absorbent material which "covers the hole or holes and the area immediately surrounding the hole or holes" and "extends circa 1 1/2-2 centimeters beyond the periphery of the respective hole." See *Gustafsson* at column 2, lines 22-23 and 26-28. *Gustafsson* further explicitly teaches that "the liquid impermeable cover layer 5... also covers the absorbent material 7 that is disposed in the pocket located around the hole 2." See *Gustafsson* at column 2, lines 31-33. In view of the above, it is clear that *Gustafsson* fails to teach or suggest the limitation of claim 10.

New independent claim 11 includes a limitation similar to that of claim 10, and is believed patentable for at least the same reason advanced with respect to claim 10.

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Claims 12-20 depend from claim 11, and are considered patentable at least for the reason advanced with respect to claim 1. The dependent claims are also patentable on their own merits since these claims recite other features of the invention neither disclosed, taught nor suggested by the applied art.

As to claims 12-13, the applied reference fails to teach or suggest the claimed elastic members as argued above with respect to claim 1.

As to claim 16, the applied reference fails to teach or suggest the claimed pleated portion of said backsheet is pleated.

Claims 17-18 include the limitations of allowable claims 17-18., respectively, and are believed patentable over the art.

As to claim 19, the applied reference fails to teach or suggest that the upper surface of said absorbent core is exposed through a first section of the first opening in the topsheet, whereas the portion of said backsheet is exposed through a different, second section of the first opening. This claim finds support in at least Fig. 1 of the present invention.

As to claim 20, the applied reference fails to teach or suggest that said first opening is the only opening extending through said topsheet, is elongated in the longitudinal direction, and further extends into the rear waist region. *Gustafsson* requires two separate holes 2, 3 and teaches away from the claimed invention. See *Gustafsson* at column 2, lines 41-43.

Each of the Examiner's rejections has been traversed. Accordingly, Applicants respectfully submit that all claims are now in condition for allowance. Early and favorable indication of allowance is courteously solicited.

The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

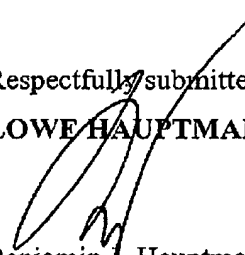
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To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

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